

Trial Hearing
Witness: KEN-OTP-P-0409

(Open Session)

ICC-01/09-01/11

1 International Criminal Court
2 Trial Chamber V(a) - Courtroom 1
3 Situation: Republic of Kenya
4 In the case of The Prosecutor v. William Samoei Ruto and Joshua Arap
5 Sang - ICC-01/09-01/11
6 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera Carbuccion and Judge Robert
7 Fremr
8 Trial Hearing
9 Monday, 24 February 2014
10 (The hearing starts in open session at 9.36 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
15 Court officer, please call the case.
16 THE COURT OFFICER: (Interpretation) Thank you, Mr President. Situation
17 Republic of Kenya, in the case of The Prosecutor versus William Samoei Ruto and
18 Joshua Arap Sang, ICC-01/09-01/11. We are in open session.
19 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
20 And, Witness, welcome back.
21 Appearances?
22 MR PUGLIATTI: Mr President, your Honours, good morning. For the
23 Prosecution, I'm Lorenzo Pugliatti. With me today are Lucio Garcia, Anton
24 Steynberg, Peter Schotsman and Jasmina Suljanovic.
25 PRESIDING JUDGE EBOE-OSUJI: Thank you.

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1 Victims' counsel?

2 MR NDERITU: Good day and good week, Mr President, your Honours. I am here
3 today, Wilfred Nderitu, counsel for victims, assisted by Mr Orchlon Narantsetseg
4 from the OPCV and Mr James Mawira, my case manager. Thank you.

5 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

6 MR KHAN: Mr President, your Honours, good morning. Mr Ruto is represented
7 by Mr David Hooper of Queen's Counsel, Ms Shyamala Alagendra, Ms Leigh
8 Lawrie, Ms Shalini Jayaraj and myself, Mr Karim Khan.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you.

10 Sang Defence?

11 MS BUISMAN: Good morning, Mr President, your Honours. Today
12 Mr Katwa-Kigen is not with us, so you'll hear from me, Caroline Buisman. I'm here
13 with Joel Bosek, I'm here with Honor Lanham, the case manager, who has not been
14 here, and Logan Hambrick and of course Mr Sang. Thank you.

15 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

16 We will now continue with the examination-in-chief. How are we doing,
17 Mr Pugliatti?

18 MR PUGLIATTI: Your Honour, at the end of the last session at the end of last week
19 we indicated that we were hoping to finish by the end of today's second session.
20 We're still hoping that that's the case, and we'll make all our best endeavours to do
21 so.

22 PRESIDING JUDGE EBOE-OSUJI: All right, thank you.

23 Witness, as I said earlier to you, welcome back. The Prosecution counsel will
24 continue asking you questions. Thank you.

25 MR PUGLIATTI: Thank you, your Honours.

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1 PRESIDING JUDGE EBOE-OSUJI: We are in open session, Mr Pugliatti.

2 MR PUGLIATTI: That's fine.

3 WITNESS: KEN-OTP-P-0409 (On former oath)

4 (The witness speaks Swahili)

5 QUESTIONED BY MR PUGLIATTI: (Continuing)

6 Q. Mr Witness, good morning. Welcome back. When we finished last week
7 you were telling the Court about a rally that you said you attended at Labuiywo.
8 Do you recall that?

9 A. Yes, I remember.

10 Q. And you told the Court that you recalled Mr Kosgey - Mr Henry Kosgey - had
11 made a speech at that rally; is that right?

12 A. That is correct.

13 Q. Now, were you there present at the rally when Mr Kosgey began speaking?

14 A. Yes, I was there.

15 Q. And were you there for the whole duration of his speech?

16 A. Yes.

17 Q. Now, what language did Mr Kosgey speak in?

18 A. At the beginning he spoke in Swahili.

19 Q. What did Mr Kosgey say when he was speaking in Swahili?

20 A. He was appealing to us to vote massively and to vote as one?

21 Q. And did he say anything else in Swahili?

22 A. He said that if we voted for ODM, ODM would bring about a lot of change in
23 Kenya.

24 Q. Do you know what change he was referring to?

25 A. We felt that the person who should take power should come from a different

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1 ethnic group, and the ethnic group which was in power at the time had spent a lot of
2 time there already.

3 Q. Witness, you said that at the beginning he spoke in Swahili. Was Swahili the
4 only language that Mr Kosgey used during his speech?

5 A. He spoke in Swahili, but towards the end of his speech, he was speaking in
6 Kalenjin.

7 Q. And can you tell the Court what you recall Mr Kosgey saying once he moved
8 into Kalenjin?

9 A. He repeated what he had been saying in the previous rallies.

10 THE INTERPRETER: And the witness has just spoken in a different language than
11 Swahili.

12 MR PUGLIATTI:

13 Q. Okay. Witness, we're going to repeat the exercise from last week with the
14 Kalenjin language. Could you just say to the Court again slowly and clearly the
15 Kalenjin that you just said?

16 A. (Speaks Kalenjin)

17 MR PUGLIATTI: I don't know if my learned friend caught that?

18 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you?

19 MR BOSEK: Yes, Mr President.

20 PRESIDING JUDGE EBOE-OSUJI: All right.

21 MR BOSEK: Yes, I got it.

22 PRESIDING JUDGE EBOE-OSUJI: Please.

23 MR BOSEK: Mr Witness, you've told this Honourable Court that this was said,
24 "Makimache ketit ne kiibu chumbek." Is that correct?

25 THE WITNESS: (Interpretation) That's correct.

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- 1 MR BOSEK: Mr President, your Honours, he's saying it's correct. Makimache is
2 M-A-K-I-M-A-C-H-E. Ketit is K-E-T-I-T. Ne is N-E. Kiibu is G-I-I-B-U (sic).
3 And then the last word is chumbek, C-H-U-M-B-E-K. I wonder whether I need to
4 repeat any of these words.
- 5 PRESIDING JUDGE EBOE-OSUJI: Did you spell "kiibu" differently this time?
- 6 MR BOSEK: Kiibu is G-I-I -- it's K. K-I-I-B-U.
- 7 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 8 MR PUGLIATTI:
- 9 Q. Witness, please listen to me now. I will repeat the Kalenjin words. Tell me
10 if this is correct, "Makimache ketit ne kiibu chumbek." Is that what you heard?
- 11 A. Yes.
- 12 Q. What does that mean in Swahili?
- 13 A. "We do not want trees that were brought by the white people."
- 14 Q. And did Mr Kosgey say anything else regarding the trees?
- 15 A. He said (Speaks Kalenjin).
- 16 THE INTERPRETER: And the witness is probably speaking Kalenjin, says the
17 Swahili booth.
- 18 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, can you repeat that slowly
19 again, clearly.
- 20 THE WITNESS: (Speaks Kalenjin)
- 21 PRESIDING JUDGE EBOE-OSUJI: Thank you. Mr Bosek, did you --
- 22 MR BOSEK: Yes, I heard it.
- 23 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 24 MR BOSEK: Mr Witness, you've said, "Kimache kesich kelyek ab ketit." Is that
25 correct?

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- 1 THE WITNESS: (No interpretation)
- 2 MR BOSEK: "Kimache kesich kelyek ab ketit."
- 3 Your Honours --
- 4 THE WITNESS: (Interpretation) That is correct.
- 5 MR BOSEK: -- Kimache is K-I-M-A-C-H-E. Kesich is K-E-S-I-C-H. Kelyek,
- 6 K-E-L-Y-E-K. Ab is A-B. Ketit is K-E-T-I-T.
- 7 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Bosek.
- 8 MR BOSEK: I'm most obliged, Mr President.
- 9 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti.
- 10 MR PUGLIATTI: Mr President.
- 11 Q. Witness, please listen to me again and tell me if this is correct, "Kimache
- 12 kesich kelyek ab ketit." Is that what you heard?
- 13 A. That is correct.
- 14 Q. What does that mean in Swahili?
- 15 A. "We have to cut down the trees and uproot them."
- 16 Q. Now, when Mr Kosgey was speaking in Kalenjin, do you recall anything else
- 17 he may have said?
- 18 A. He used a proverb that is to uproot bamboos in a figurative manner.
- 19 Q. And just to confirm, was that in Kalenjin?
- 20 A. Yes.
- 21 Q. Okay. So please repeat the Kalenjin slowly and clearly for the Court.
- 22 A. (Speaks Kalenjin)
- 23 PRESIDING JUDGE EBOE-OSUJI: Can you repeat again, please?
- 24 THE WITNESS: (Speaks Kalenjin)
- 25 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you get that?

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- 1 MR BOSEK: Yes, Mr President.
- 2 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 3 MR BOSEK: Mr Witness, did you say, "Ometai suswek kolanda agoi got"?
- 4 Mr President --
- 5 THE WITNESS: (Interpretation) That is correct.
- 6 MR BOSEK: -- ometai is O-M-O-T-A-I -- sorry, it's M -- O-M-E-T-A-I. Suswek is
- 7 S-U-S-W-E-K. Kolanda is K-O-L-A-N-D-A. Agoi, A-G-O-I. Got, G-O-T.
- 8 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, I will request that you take that again,
- 9 please, from the beginning.
- 10 MR BOSEK: Okay, Mr President. "Ometai suswek kolanda agoi got."
- 11 A-M-E-T-A-I (sic), that is for ometai. Suswek is S-U-S-W-E-K. Kolanda,
- 12 K-O-L-A-N-D-A. Agoi is A-G-O-I. Got is K-O-T -- G-O-T. Sorry.
- 13 PRESIDING JUDGE EBOE-OSUJI: All right. So Ometai, the first word is -- did
- 14 you say O-M-E-T-A-I?
- 15 MR BOSEK: No, it's A-M -- O-M, sorry. Ometai, O-M-E-T-A-I.
- 16 PRESIDING JUDGE EBOE-OSUJI: O-M-E-T-A-I?
- 17 MR BOSEK: Yes, Mr President.
- 18 PRESIDING JUDGE EBOE-OSUJI: All right, thank you very much.
- 19 MR BOSEK: Most obliged.
- 20 MR PUGLIATTI:
- 21 Q. Witness, please listen to me repeat the Kalenjin words now. "Ometai suswek
- 22 kolanda agoi got." Is this what you heard?
- 23 A. That is correct.
- 24 Q. And what does this mean in Swahili?
- 25 A. "Do not allow the grass to creep right into your houses."

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1 Q. Witness, what time did this rally finish?

2 A. I do not know at what time precisely, but it was between 2 and 3 p.m.

3 Q. Okay. I will move on now, Witness, and ask you about another rally that
4 you told the Court you remember attending, and this is at Meteitei. Did you attend
5 a political rally at Meteitei?

6 A. I was there.

7 Q. Now, you told the Court earlier that this was the last rally you attended. Do
8 you recall when this might have been?

9 A. I remember.

10 Q. Do you know the date?

11 A. I no longer remember the precise date, but it was in December.

12 Q. And do you remember how long before the election it was?

13 A. I would say it was a few days before the elections.

14 Q. How did you hear that this rally at Meteitei was taking place?

15 A. An announcement has been made using public announcement systems that
16 were mounted on vehicles that drove around.

17 Q. What did these public announcements say?

18 A. The announcements were to the effect that a public rally would take place at
19 which guests would come as our invitees, and we should attend the meetings in
20 order to listen to what they had to say.

21 Q. Did the announcements say who these guests would be?

22 A. They said that some guests would be coming such as Henry Kosgey, and the
23 Kalenjin spokesperson, William Ruto, would also be present at the rally.

24 Q. So where in Meteitei was the rally held?

25 A. There is a field near the shops. It is at that field that the rally took place.

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1 Q. What time did you arrive there?

2 A. At 10 a.m.

3 Q. And had the rally already begun when you arrived?

4 A. The rally had started even before the guests arrived.

5 Q. When you arrived, had the guests already arrived?

6 A. No, they had not yet arrived.

7 Q. Okay. I'll come to that in a moment, but before I do, can you tell the Court, if
8 you can, approximately how many people were present at this rally?

9 A. Many people attended that rally.

10 Q. Are you able to estimate approximately how many people? It doesn't have
11 to be exact.

12 A. I would say that many people attended the rally. Maybe 700, 800, even up to
13 1,000 persons.

14 Q. And where were you standing in the crowd at the rally?

15 A. At the back of the field there were a number of shops and we stood next to
16 those shops.

17 Q. And from your observations, what ethnic groups were in the crowd?

18 A. All the ethnic groups living in that area attended that meeting: The Kisii, the
19 Kikuyu, the Luhyas and the Luos, as well as the Nandi. They all attended the rally.

20 Q. And are you able to say which was the most numerous at the rally?

21 A. The Kalenjin ethnic group was the majority group in attendance, then the
22 Luhyas, the Kikuyu, the Kisii were also present but in smaller numbers.

23 MR PUGLIATTI: Your Honour, at this stage, if we could, we'd request to go into
24 private session for just one or two questions.

25 PRESIDING JUDGE EBOE-OSUJI: Private session then.

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1 *(Private session at 10.06 a.m.) (Reclassified as Open session)

2 THE COURT OFFICER: (Interpretation) We are in private session, Mr President.

3 PRESIDING JUDGE EBOE-OSUJI: Thank you. Please proceed.

4 MR PUGLIATTI:

5 Q. Now, Witness, when you attended this rally, did you go alone or did you
6 attend with anybody else?

7 A. I went along with some friends of mine.

8 Q. Can you tell the Court the names of the friends that you attended with,
9 please?

10 A. My friends were called (Redacted).

11 Q. Is that the same (Redacted) that you told the Court you went to the rally at
12 Kapchorwa with?

13 A. Yes, it is he.

14 Q. And his ethnicity for the Court, please, is what?

15 A. Kalenjin.

16 Q. And your friend (Redacted) is that the same (Redacted) that you also told the
17 Court you went to the rally at Kapchorwa with?

18 A. Yes.

19 Q. What is (Redacted) ethnicity?

20 A. He is Kalenjin.

21 Q. Finally, your friend (Redacted). Do you know (Redacted) full name?

22 A. His name is (Redacted).

23 Q. And what is his ethnicity?

24 A. He belongs to the Luhya ethnic group.

25 MR PUGLIATTI: Your Honour, that was all that we had for the private session,

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1 unless the Court has anything further?

2 PRESIDING JUDGE EBOE-OSUJI: Can we find out the residence of (Redacted) at
3 the time?

4 MR PUGLIATTI:

5 Q. Witness, at the time where did (Redacted) live?

6 A. He used to live in (Redacted) at that time.

7 PRESIDING JUDGE EBOE-OSUJI: All right. You want to go back to public
8 session?

9 MR PUGLIATTI: That's correct, your Honour.

10 PRESIDING JUDGE EBOE-OSUJI: We will go to -- I see Mr Khan --

11 MR KHAN: Your Honour, with your leave, it would be useful, the spelling of (Redacted)
12 it says at the moment, (Redacted). Is it -- is that the correct spelling, or
13 is it (Redacted) And, your Honour, I would also ask, because it hasn't been
14 mentioned previously, for the father's name of (Redacted).

15 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, could you work those into your
16 two questions?

17 MR PUGLIATTI: The latter absolutely. The former I'm not so certain that the
18 witness would assist us, or be able to assist us with that.

19 PRESIDING JUDGE EBOE-OSUJI: All right. Then it makes it more important then
20 to get some other information about him, I mean the (Redacted).

21 MR KHAN: And, your Honour, to clarify I think the transcript shows that your
22 Honour perhaps heard what the witness says and gives the surname (Redacted), but
23 it may be useful for the witness to -- for the transcript to record the witness saying
24 that the surname is (Redacted) as well so that we have it all pinned down.

25 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, first let's get the witness to again

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1 repeat the names, first and last, of this person and whether the witness knows of any
2 other name that (Redacted) may go by. If we started with the witness saying the
3 name again so we are sure it is (Redacted), let him say it so the transcript can at least
4 pick it by phonetics and we'll take it from there.

5 MR PUGLIATTI:

6 Q. Witness, just for the record, could you say (Redacted) full name once more for
7 the Court?

8 A. His name is (Redacted).

9 Q. Do you know his father's full name?

10 A. We usually referred to him as (Redacted) and that was the name that was
11 most popularly known.

12 Q. Is that a yes or a no to the question? His father's name, do you know (Redacted)
13 (Redacted) father's name? If you know it.

14 A. No, I do not know.

15 Q. How about his mother's name, do you know the name of (Redacted)
16 mother?

17 A. Her name -- her name was (Redacted)

18 Q. Do you know her full name?

19 A. No, that's the only name I knew.

20 PRESIDING JUDGE EBOE-OSUJI: Okay. We can leave it at that and go to open
21 session now.

22 (Open session at 10.14 a.m.)

23 THE COURT OFFICER: (Interpretation) Mr President, we are in open session.

24 PRESIDING JUDGE EBOE-OSUJI: Thank you.

25 MR PUGLIATTI:

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1 Q. Now, Witness, you've told the Court that the guests had not yet arrived when
2 you were at the rally. What time did the guests arrive at the rally?

3 A. When the guests arrived, it was already past noon. It was around 1 p.m.

4 Q. Did you see them when they arrived?

5 A. Yes. They came in a convoy of vehicles.

6 Q. Do you recall who you saw arriving in that convoy at the rally?

7 A. The guests came along with several other invitees whom I did not recognise,
8 but Kosgey and Ruto were among the group that arrived.

9 Q. Now, were speeches made at this rally?

10 A. Yes. Speeches were delivered at that rally.

11 Q. Can you recall who made speeches, or which speeches do you recall, if any?

12 A. Two people spoke whom I do not know. However, Henry Kosgey spoke as
13 well as Ruto.

14 Q. Can you just clarify the Court -- for the Court who spoke first between
15 Mr Kosgey and Mr Ruto, if you remember?

16 A. It is Kosgey who spoke first.

17 Q. Were you present when he began speaking?

18 A. I was present when they all spoke. I was present.

19 Q. And as regards Mr Kosgey's speech, were you present for the entire duration
20 of the speech?

21 A. Yes. I was there up to the end of the rally.

22 Q. And could you hear Mr Kosgey when he was giving a speech?

23 A. Yes, I was there.

24 Q. And could you see him while he was giving his speech?

25 A. Yes, I was able to see him.

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1 Q. Now, in what language did Mr Kosgey deliver his speech?

2 A. He spoke in Swahili at the beginning of his speech.

3 Q. And what did he say when he spoke in Swahili?

4 A. He said that we should vote massively for the ODM. He also said that the
5 roads in Meteitei would be repaired given that they were in a bad state. That is the
6 roads in Meteitei. He also said that he was going to initiate development projects
7 and build a hospital if we voted for the ODM party.

8 Q. Did he say anything else in Swahili that you recall?

9 A. He said a lot of things about development. I am not able to recall all what he
10 said, but he said many things in that regard.

11 Q. You told the Court that he spoke in Swahili at the beginning of the speech.

12 Did he speak any other languages during his speech?

13 A. Ordinarily before concluding his speech, he repeated the same things that he
14 had said at other rallies, namely, that we were going to uproot those trees that had
15 been brought in by the whites and that we should not allow the weed or grass to
16 creep.

17 Q. Let's take those one at a time, Witness. Once again, we need the Kalenjin
18 words that you heard from Mr Kosgey, so let's start with that "we were going to
19 uproot those trees that had been brought in by the whites." Could you please
20 slowly and clearly say the Kalenjin words that you heard Mr Kosgey say, and we'll
21 write them down. Thank you.

22 A. (Speaks Kalenjin)

23 THE INTERPRETER: From the Swahili booth, the witness is speaking in a language
24 other than Swahili.

25 MR PUGLIATTI:

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1 Q. Just say those Kalenjin words one more time, please, Witness.

2 A. (Speaks Kalenjin)

3 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you get those, please?

4 MR BOSEK: Yes, Mr President.

5 PRESIDING JUDGE EBOE-OSUJI: All right. If you can kindly again help us.

6 MR BOSEK: Mr Witness, you've told this Honourable Court that the words spoken
7 were, "Kimache kesich kelyek ab ketit." Is that correct, Mr Witness?

8 THE WITNESS: (Interpretation) Yes, that is correct.

9 MR BOSEK: Mr President, your Honours, kimache is spelled K-I-M-A-C-H-E.

10 Kesich, K-E-S-I-C-H. Kelyek is K-E-L-Y-E-K. Ab is A-B. Ketit is K-E-T-I-T.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

12 MR BOSEK: Most obliged, Mr President.

13 MR PUGLIATTI:

14 Q. Witness, once again please listen to me repeat the Kalenjin words. "Kimache
15 kesich kelyek ab ketit." Is that correct? Is that what you heard Mr Kosgey say?

16 A. Yes, that is correct.

17 Q. What does that mean in Swahili?

18 A. It means "Cut the roots of the trees".

19 Q. Now, the other thing that you told the Court you recalled Mr Kosgey saying
20 was about not allowing the weeds or grass to creep. Please can you repeat the
21 Kalenjin words that you heard in that regard?

22 A. (Speaks Kalenjin)

23 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you get that or do you need him
24 to repeat?

25 MR BOSEK: Let him repeat it, Mr President.

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- 1 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, can you kindly repeat.
- 2 THE WITNESS: (Speaks Kalenjin)
- 3 MR BOSEK: Mr Witness, you told the Honourable Court that these are the words,
- 4 "Makimache ometai suswek kolanda agoi got." Is that right?
- 5 THE WITNESS: (Interpretation) Yes, that is correct.
- 6 MR BOSEK: Mr President, makimache is spelled M-A-K-I-M-A-C-H-E. Ometai is
- 7 spelled O-M-E-T-A-I. Suswek, S-U-S-W-E-K. Kolanda is K-O-L-A-N-D-A. Agoi,
- 8 A-G-O-I. Got is G-O-T.
- 9 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 10 MR BOSEK: Most obliged, Mr President.
- 11 MR PUGLIATTI:
- 12 Q. Witness, now please listen to me repeat those Kalenjin words and tell me if
- 13 it's correct. "Makimache ometai suswek kolanda agoi got." Is that what you
- 14 heard?
- 15 A. Yes, that is correct.
- 16 Q. What does that mean in Swahili?
- 17 A. It means, "Do not allow the grass to grow right into your houses."
- 18 Q. Now, you've told the Court about trees and you've told the Court about
- 19 weeds or grass. Do you recall anything else that Mr Kosgey may have said when
- 20 he spoke in Kalenjin?
- 21 A. He said in Kalenjin (Speaks Kalenjin).
- 22 PRESIDING JUDGE EBOE-OSUJI: All right. Can you repeat kindly, slowly?
- 23 THE WITNESS: (Speaks Kalenjin)
- 24 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you get that?
- 25 MR BOSEK: Yes, Mr President.

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- 1 PRESIDING JUDGE EBOE-OSUJI: All right.
- 2 MR BOSEK: Mr Witness, you've told the Honourable Court that these are the
- 3 words you heard, "Makimache ngoroik aeng." Is that correct?
- 4 THE WITNESS: (Interpretation) That's correct.
- 5 MR BOSEK: Mr President, the first word is M-A-K-I-M-A-C-H-E, second word
- 6 ngoroik is N-G-O-R-O-I-K and aeng is spelled A-E-N-G.
- 7 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 8 MR BOSEK: I'm most obliged, Mr President.
- 9 MR PUGLIATTI:
- 10 Q. Witness, please listen to me now. I will repeat those words, "Makimache
- 11 ngoroik aeng". Is that what you heard?
- 12 A. That is correct.
- 13 Q. What does that mean in Swahili?
- 14 A. "We do not want two types of clothes."
- 15 Q. I'd like to ask you now, Witness, about the speech you heard by Mr Ruto.
- 16 Can you tell the Court did Mr Ruto speak immediately after Mr Kosgey, or were
- 17 there other speakers in-between them?
- 18 A. There were speakers who took the floor before Ruto. He took the floor
- 19 later.
- 20 Q. Did anybody take the floor after Ruto -- Mr Ruto?
- 21 A. The people who took the floor did so well before him.
- 22 Q. Just to be clear, did anybody take the floor after him though?
- 23 A. No, after Ruto no one else took the floor.
- 24 Q. Now, were you there when Mr Ruto began his speech?
- 25 A. Yes, I was there.

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1 Q. And were you present for the entire duration of his speech?

2 A. Yes.

3 Q. Could you hear him while he was speaking?

4 A. Yes.

5 Q. Could you see him while he was speaking?

6 A. Yes.

7 Q. If you can, approximately how far from Mr Ruto were you while he was
8 speaking?

9 A. The distance was not long. I was standing just in front of the shops.

10 Q. Just if you can approximately, if you're able to, how far in yards were you
11 from Mr Ruto?

12 A. I would say just a little over 30 yards.

13 Q. Now, what language was Mr Ruto speaking?

14 A. At the beginning of his speech he spoke in Swahili, but towards the end he
15 spoke in Kalenjin.

16 Q. So starting with the Swahili, what did Mr Ruto say when he spoke in
17 Swahili?

18 A. He appealed to us to vote for his political party. He said that that party
19 would take over power because it was the strongest party.

20 Q. Did he say anything else in Swahili while talking in Swahili?

21 A. He said a lot of things. I'm not in a position to tell you everything, but in a
22 nutshell he was asking people to vote massively and to do the work that they had
23 been ordered to do.

24 Q. Just to be clear, when Mr Ruto asked the people to do the work that they had
25 been ordered to do, in which language did he say that?

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1 A. He was speaking in Kalenjin.

2 Q. In that case, once again please slowly and clearly can you repeat for the
3 Court the Kalenjin words that you heard Mr Ruto say when he said that they, the
4 people, had to do the work they had been ordered to do. The Kalenjin words,
5 please.

6 A. (Speaks Kalenjin)

7 PRESIDING JUDGE EBOE-OSUJI: If you've finished the phrase, I will ask you to
8 go over it again. Can you give it to us again, that phrase?

9 THE WITNESS: (Speaks Kalenjin)

10 PRESIDING JUDGE EBOE-OSUJI: Did you get it, Mr Bosek?

11 MR BOSEK: Yes, Mr President.

12 PRESIDING JUDGE EBOE-OSUJI: All right.

13 MR BOSEK: Mr Witness, you've told this Honourable Court that these are the
14 words you heard, "Kimache oai kazit ne kiagonin." Is that correct?

15 THE WITNESS: (Interpretation) Can you repeat, please?

16 MR BOSEK: "Kimache oai kazit ne kiagonin."

17 THE WITNESS: (Interpretation) That is correct.

18 MR BOSEK: Mr President, kimache is K-I-M-A-C-H-E. Oai is O-A-I. Kazit,
19 K-A-Z-I-T. Ne is N-E. Kiagonin, K-I-A-G-O-N-I-N.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Bosek.

21 MR BOSEK: I'm most obliged, Mr President.

22 MR PUGLIATTI: Mr President, before I repeat those words to the witness, I
23 wonder if the Court could clarify whether kazit is with a "Z," or if it's spelt any
24 other way?

25 MR BOSEK: It's with a "Z."

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1 MR PUGLIATTI:

2 Q. Okay, Witness, please listen to me repeat those words. Tell me if it's what
3 you heard, "Kimache oai kazit ne koai kiagonin." Is that what you heard Mr Ruto
4 say?

5 PRESIDING JUDGE EBOE-OSUJI: Did you put one more word in there?

6 THE WITNESS: (Interpretation) Please kindly repeat.

7 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, it looks like you inserted -- again
8 somebody else correct me if I'm wrong --

9 MR PUGLIATTI: I may have repeated some letters.

10 PRESIDING JUDGE EBOE-OSUJI: Yes, in the --

11 MR PUGLIATTI: I think I've spotted it.

12 PRESIDING JUDGE EBOE-OSUJI: Between the "ne" and the "kiagonin" you might
13 have put in something different.

14 MR PUGLIATTI: I think I repeated the first three letters. I'll do it again without.

15 PRESIDING JUDGE EBOE-OSUJI: All right.

16 MR PUGLIATTI:

17 Q. Witness, I will repeat. I made a mistake and I will repeat. "Kimache oai
18 kazit ne kiagonin." Is that what you heard Mr Ruto say?

19 A. Yes.

20 Q. And what does that mean in Swahili?

21 A. "I am asking you to do the work that I asked you to do."

22 Q. Now, you said Mr Ruto was speaking Kalenjin when he said this. Do you
23 recall anything else he might have said while speaking in Kalenjin?

24 A. He spoke about trees that we had to uproot, as well as the grass that was not
25 to be allowed to creep right into the houses.

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1 Q. Okay, Witness, let's take those one at a time and as before we'll repeat the
2 Kalenjin. So first let's repeat regarding the trees to uproot. Can you tell the Court
3 the Kalenjin words that you heard Mr Ruto say?

4 A. (Speaks Kalenjin)

5 PRESIDING JUDGE EBOE-OSUJI: All right. Can you repeat?

6 THE WITNESS: (Speaks Kalenjin)

7 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, did you get those?

8 MR BOSEK: Yes, Mr President.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you.

10 MR BOSEK: Mr Witness, you told this Honourable Court, "Makimache ketit ne
11 kiibu chumbek." Is that correct?

12 THE WITNESS: (Interpretation) That is correct.

13 MR BOSEK: Mr President, makimache is M-A-K-I-M-A-C-H-E. Ketit is
14 K-E-T-I-T. Ne is N-E. Kiibu is K-I-I-B-U. Chumbek is C-H-U-M-B-E-K.

15 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

16 MR BOSEK: Most obliged.

17 MR PUGLIATTI:

18 Q. Witness, please listen to me repeat those Kalenjin words, "Makimache ketit
19 ne kiibu chumbek." Is that what you heard Mr Ruto say?

20 A. Yes, that is it.

21 Q. What does that mean in Swahili?

22 A. "We do not want the trees which were brought by the white people."

23 Q. Did Mr Ruto say anything else in regards to the trees that had been brought
24 by the white people?

25 A. He added that people should not allow the grass to creep right into their

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1 houses.

2 Q. Yes, I will come to that in a moment, Witness. I'm still asking you about the
3 trees that Mr Ruto spoke about, and my question is did he say anything further to
4 the crowd about the trees that the white people had brought?

5 A. (Speaks Kalenjin)

6 Q. If you could repeat those Kalenjin words just once more, Witness?

7 A. (Speaks Kalenjin)

8 PRESIDING JUDGE EBOE-OSUJI: The record will indicate that the witness had
9 said something which though it didn't come back, there was no indication of it, but
10 I thought I should mention that the witness had said something presumably in
11 Kalenjin.

12 Mr Bosek, do you want him to repeat, or did you get it?

13 MR BOSEK: No, I got it, Mr President.

14 PRESIDING JUDGE EBOE-OSUJI: You've got it.

15 MR BOSEK: Let him confirm.

16 PRESIDING JUDGE EBOE-OSUJI: All right.

17 MR BOSEK: Mr Witness, you told this Honourable Court, "Kimache kesich kelyek
18 ab ketit." Is that correct?

19 THE WITNESS: (Interpretation) Please repeat.

20 MR BOSEK: "Kimache kesich kelyek ab ketit"?

21 THE WITNESS: (Interpretation) Please repeat the beginning.

22 MR BOSEK: "Kimache kesich kelyek ab ketit"?

23 PRESIDING JUDGE EBOE-OSUJI: Okay, one second. All right. You can repeat
24 now.

25 MR BOSEK: Mr Witness, I'm repeating, "Kimache kesich kelyek ab ketit"?

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- 1 THE WITNESS: (Interpretation) No, that is not correct.
- 2 MR BOSEK: He's changed it to "makimache."
- 3 Okay, let me repeat it again, Mr Witness. "Makimache kesich kelyek ab ketit"?
- 4 THE WITNESS: (Interpretation) No. In any case, I really cannot grasp what
- 5 you are saying.
- 6 MR BOSEK: Can you repeat it yourself again?
- 7 THE WITNESS: (Speaks Kalenjin)
- 8 PRESIDING JUDGE EBOE-OSUJI: Okay, one second, Witness. All right, can you
- 9 again slowly say what it is that you said you heard said in Kalenjin? Can you now
- 10 start slowly?
- 11 THE WITNESS: (Speaks Kalenjin)
- 12 PRESIDING JUDGE EBOE-OSUJI: One more time, please.
- 13 THE WITNESS: (Speaks Kalenjin)
- 14 PRESIDING JUDGE EBOE-OSUJI: Was the first word "kimache," or "makimache"?
- 15 THE WITNESS: (Speaks Kalenjin)
- 16 PRESIDING JUDGE EBOE-OSUJI: "Kimache," you said?
- 17 THE WITNESS: (No interpretation)
- 18 PRESIDING JUDGE EBOE-OSUJI: Please, Mr Bosek.
- 19 MR BOSEK: Mr Witness, so you have actually confirmed to this Court that what
- 20 you said is, "Kimache kesich kelyek ab ketit"?
- 21 THE WITNESS: (Interpretation) That is correct.
- 22 MR BOSEK: Mr President, your Honours, kimache is K-I-M-A-C-H-E. Kesich is
- 23 K-E-S-I-C-H. Kelyek is K-E-L-Y-E-K. Ab is A-B. Ketit is K-E-T-I-T.
- 24 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Bosek.
- 25 MR BOSEK: I'm most obliged, Mr President.

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1 MR PUGLIATTI:

2 Q. Witness, now please listen to me repeat those Kalenjin words. "Kimache
3 kesich kelyek ab ketit;" is that correct?

4 A. That is correct.

5 Q. What does that mean in Swahili?

6 A. "I would want us to uproot the trees."

7 Q. Now, a few moments ago, Witness, you said that Mr Ruto also said during
8 his speech that they should not allow the grass to creep into their houses. Can you
9 repeat slowly and clearly the Kalenjin words that you heard Mr Ruto say?

10 A. (Speaks Kalenjin)

11 PRESIDING JUDGE EBOE-OSUJI: All right. One more time, Witness.

12 THE WITNESS: (Speaks Kalenjin)

13 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek?

14 MR BOSEK: Mr Witness -- yes, Mr President.

15 PRESIDING JUDGE EBOE-OSUJI: Remember, now that you're also doing this, we
16 must also observe the pauses between the witness finishing and you starting.

17 MR BOSEK: Yes, most obliged.

18 PRESIDING JUDGE EBOE-OSUJI: Thank you.

19 MR BOSEK: Mr Witness, you've told this Court, "Makimache ometai suswek
20 kolanda agoi got"?

21 THE WITNESS: (Interpretation) That is correct.

22 MR BOSEK: He confirms that is correct, Mr President. Makimache is spelt

23 M-A-K-I-M-A-C-H-E. Ometai is O-M-E-T-A-I. Suswek is spelled S-U-S-W-E-K.

24 Kolanda is K-O-L-A-N-D-A. Agoi is A-G-O-I. Got is spelled G-O-T.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

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1 MR BOSEK: I'm most obliged.

2 MR PUGLIATTI:

3 Q. Witness, please listen to me repeat those Kalenjin words. "Makimache
4 ometai suswek kolanda agoi got." Is that correct?

5 A. That is correct.

6 Q. What does that mean in Swahili?

7 A. "Do not allow the grass to creep right into your houses."

8 MR PUGLIATTI: Mr President, I see the time. I wonder if this would be a
9 convenient moment?

10 PRESIDING JUDGE EBOE-OSUJI: Thank you. And you're still on track to
11 finishing by the second session?

12 MR PUGLIATTI: It's not 100 per cent, but we're certainly hoping that.

13 PRESIDING JUDGE EBOE-OSUJI: Try.

14 All right. Witness, we will take our morning break now. We will let you out and
15 you will rejoin us at 11.30.

16 The blinds down, please.

17 *(Closed session at 11.00 a.m.) (Reclassified as Open session)

18 THE COURT OFFICER: (Interpretation) Mr President, we are in closed session.

19 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

20 (The witness stands down)

21 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

22 THE COURT OFFICER: All rise.

23 (Recess taken at 11.01 a.m.)

24 (Upon resuming in open session at 11.35 a.m.)

25 THE COURT USHER: All rise.

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1 Please be seated.

2 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. And, Witness, welcome
3 back.

4 Mr Pugliatti, please.

5 MR PUGLIATTI:

6 Q. Now, Witness, before the break we were talking about the rally you attended
7 at Meteitei. Now, you indicated at the end of last week to the Court if you
8 remember that you heard the word "madoadoa" used at Meteitei; is that correct?

9 A. That's right.

10 Q. Do you recall who used that word at Meteitei rally?

11 A. It was Ruto.

12 Q. And we know that "madoadoa" is a Swahili word, but when Mr Ruto used it,
13 was he speaking in Kalenjin or in Swahili or any other language for that matter?

14 A. He was speaking in Kalenjin.

15 Q. Okay. Witness, this is the last time I'll ask you to do this. Could you just
16 say clearly for the Court the Kalenjin words that Mr Ruto you heard use?

17 A. (Speaks Kalenjin)

18 PRESIDING JUDGE EBOE-OSUJI: All right. One more time.

19 THE WITNESS: (Speaks Kalenjin)

20 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, you heard Mr Pugliatti say this is the
21 last time he will do this.

22 MR BOSEK: It's okay, Mr President.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you.

24 MR BOSEK: Witness, confirm to this Honourable Court that what you have said is
25 "makimache ngoroik aeng"? Is that correct?

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1 THE WITNESS: (No interpretation)

2 MR BOSEK: Mr President, your Honours, makimache is spelled

3 M-A-K-I-M-A-C-H-E. Ngoroik is N-G-O-R-O-I-K. Aeng is spelled A-E-N-G.

4 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

5 MR BOSEK: I'm most obliged.

6 MR PUGLIATTI:

7 Q. Witness, please listen to me repeat those words. "Makimache ngoroik aeng."

8 Is that what you heard?

9 A. That's right.

10 Q. What does that mean in Swahili?

11 A. "We do not want two different types of clothing."

12 Q. Okay. Witness, that's all the questions I have for you regarding the rallies
13 that you attended. I'd like to move on to a new topic now, which is the elections
14 and, in fact, the election day itself.

15 MR PUGLIATTI: Mr President, there are a few questions at this stage that I would
16 request be asked in private session.

17 PRESIDING JUDGE EBOE-OSUJI: And how long do you think we will be in
18 private session?

19 MR PUGLIATTI: For this first round of questions, perhaps up to 15 minutes.
20 There are a few matters that I believe should be done in private session, addressed in
21 private session.

22 PRESIDING JUDGE EBOE-OSUJI: All right. We'll go into private session.

23 *(Private session at 11.41 a.m.) (Reclassified as Open session)

24 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

25 MR PUGLIATTI:

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1 Q. Witness, we're now in private session. I'd like to ask you, on 27 December,
2 on the day of the election, did you vote?

3 A. Yes, I did vote.

4 Q. And where did you vote?

5 A. I voted in (Redacted).

6 Q. What time of day was it when you voted?

7 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, do you know the spelling?

8 MR PUGLIATTI: I beg your pardon. To the best of my knowledge it's
9 (Redacted).

10 PRESIDING JUDGE EBOE-OSUJI: All right. Your question was what time of day
11 he voted?

12 MR PUGLIATTI: That's correct.

13 Q. Witness, what time of day did you vote?

14 A. I voted early in the day, at 9 in the morning. I had already voted by 9 in the
15 morning.

16 Q. And how far is (Redacted) from your home?

17 A. It's a 30 minute walk away.

18 Q. Now, once you were back home, did anything happen that evening?

19 A. I voted, and I went back home. After that I went back to see who had won.

20 Q. Were you able to sleep that night?

21 A. Yes, I was able to sleep.

22 Q. Did anything disturb your sleep that evening, that night?

23 MR KHAN: Your Honour, can I ask that my learned friend exercise caution with
24 his questioning. I'll say no more.

25 PRESIDING JUDGE EBOE-OSUJI: There is no need for that now. Please proceed.

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1 MR PUGLIATTI:

2 Q. Witness, I'll ask the question again. Did anything that night, the night of the
3 election, disturb your sleep?

4 A. I was awoken during the night by my father.

5 Q. And for what reason had you been awoken by your father?

6 A. He had just seen some fires burning in an area. There were a great many
7 flames.

8 Q. What area was that?

9 A. He saw the flames from (Redacted).

10 Q. And what did you and your father do when you saw those flames?

11 A. He woke me up, and then he went back to his home. During that time I
12 continued to look at the flames. And you see, I was at home then in my own home.

13 Q. Did you see anybody else at this time?

14 A. During that night, I did not see any other people. I did see some people the
15 next morning.

16 Q. Okay. I'll come to that in a moment. Just one or two more questions. From
17 which direction were the flames coming?

18 A. From the place where I was, the flames were coming from the east, from
19 (Redacted).

20 Q. Do you know what was on fire, if you know?

21 A. Houses were burning.

22 Q. Did you come to know which houses were burning?

23 A. They were houses belonging to the Luhya, Kisii, Kikuyu, and Luo people.

24 Q. And the people who these houses belonged to, do you know where they
25 went?

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1 A. The next morning people were going by as they went towards (Redacted).

2 Q. Okay. So the next morning when you saw people going towards (Redacted),
3 where in (Redacted) were they going, if you know?

4 A. Well, (Redacted) was the place where people could get help from. (Redacted)
5 (Redacted).

6 Q. And from your observations, what ethnicities were these people that you
7 saw?

8 A. They were Kikuyu, Luhya, Kisii and the Wagitsuru (phon) -- Luo.

9 Q. And, again, just to be clear, the people that you saw in the morning going
10 towards (Redacted), do you know where they had come from?

11 A. They came from the side where the houses were burning.

12 Q. And, Witness, is it correct that (Redacted)?

13 A. That's right.

14 Q. And that the (Redacted); is that correct?

15 A. Yes, that's right.

16 Q. And what did you do that day once you saw this?

17 A. I was worried, but I couldn't do anything. I stayed at home.

18 Q. Did you spend the night at your home?

19 A. The following night I went, and I hid.

20 Q. The question I asked the witness was, the day after the election, where you
21 spent the night.

22 A. After the election, I went and I slept somewhere else in a school the next day.

23 Q. Witness, we're in private session at the moment. What was the name of the
24 school that you went to sleep at?

25 A. I went and I slept at (Redacted).

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1 Q. And where was your family when you went to sleep at (Redacted)

2 (Redacted)

3 A. I slept there with my family.

4 MR KHAN: Mr President, can I ask why this is in private session? I should

5 indicate that the witness has said in his statement that there were so many people at

6 that location. We've led the evidence of the rallies in public. It's my respectful

7 submission this can be led in public as well.

8 MR PUGLIATTI: Your Honour, in fact it's the balancing exercise that we discussed

9 a couple of days ago at the beginning of this witness's testimony, but in fact we were

10 about to move or request to move back into public session and discuss the scene of

11 the school in public session, with the proviso if the Court is minded that the witness

12 not say the name of this school but simply refer to it as "the school." We're

13 concerned, our concern is that use of the exact name of the exact school, despite the

14 fact that others may have been there, it's not the same as a large public rally, and

15 we're concerned that using the exact name would situate the witness -- one moment.

16 If I may turn my back?

17 As I was saying, the school is in the area where the witness lives, so mention of the

18 name of the school, which itself is a point where people in the area may have, may

19 have found themselves would all go towards situating and locating and identifying

20 this witness.

21 So we were about as I say to ask to move cautiously and proceed cautiously, but in

22 public session with the school itself remaining anonymous, but what was seen there

23 not.

24 MR KHAN: Mr President, with your leave, we would very much like the location

25 to be led in evidence publicly. The rallies, the five rallies to which the witness has

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1 testified, are in a certain geographical area and that's been led in public. The
2 witness has said in the disclosure that there were so many people at that school.
3 We say that it's important for the Defence for that evidence to be led in public.
4 There is a public interest in it being so relayed. And there cannot be said to be any
5 jeopardy to the witness as he said he was not staying there alone, but with so many
6 people.

7 MR PUGLIATTI: Your Honour, if I may, despite the fact that there were people at
8 the school, there still remain identifying features about this individual that would
9 identify him, (Redacted) and some of the testimony that may come out later. It's all
10 about dots that can be joined. And this is a school that is in his immediate vicinity
11 where he lives and works and farms.

12 PRESIDING JUDGE EBOE-OSUJI: Mr Khan, one second.

13 Mr Pugliatti, how many people were at the school taking refuge?

14 MR PUGLIATTI: Your Honour, the exact number hasn't been elicited yet, but --

15 PRESIDING JUDGE EBOE-OSUJI: Approximately.

16 MR PUGLIATTI: The witness's materials themselves say that there were many of a
17 number of ethnicities.

18 PRESIDING JUDGE EBOE-OSUJI: All right. Why don't we ask him?

19 MR PUGLIATTI:

20 Q. Witness, when you arrived at (Redacted), did you see
21 other people there?

22 A. There were other people there, Kisii and --

23 THE INTERPRETER: Inaudible.

24 MR PUGLIATTI:

25 Q. Could you just repeat that answer? The whole answer wasn't heard by the

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1 Court, please, Witness.

2 A. There were other people who had come to hide there. They were Luhya
3 people and Kisii people, as well as Luo people.

4 Q. And, if you can, do you have an idea approximately how many people were
5 at the school when you arrived there the first night?

6 A. I don't know exactly how many people were there. It was night. It was
7 dark when we went in. I really couldn't tell you how many people were there.

8 PRESIDING JUDGE EBOE-OSUJI: How long did you stay there taking refuge?

9 THE WITNESS: (Interpretation) The teacher warned us to leave very early. We
10 left very early and each person went back to his or her home.

11 PRESIDING JUDGE EBOE-OSUJI: Did you return to (Redacted) to take refuge
12 after you left very early?

13 THE WITNESS: (Interpretation) Yes. We hid the first time and a second time,
14 and the third time that is when we went back home.

15 PRESIDING JUDGE EBOE-OSUJI: You say the teacher told you to leave very early.
16 Was that the first occasion that you went to (Redacted) for refuge?

17 THE WITNESS: (Interpretation) The first time and the second time.

18 PRESIDING JUDGE EBOE-OSUJI: How much time had passed between the two
19 times, between the first time and the second time you returned?

20 THE WITNESS: (Interpretation) At the beginning we returned to our homes. On
21 the second occasion, we went to hide there, and it is at that time that I saw houses
22 being burned. I did not return to that place any longer thereafter, but (Redacted)
23 (Redacted).

24 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, it seems that the witness is saying
25 that he went to (Redacted) more than once. Are you leading testimony about

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1 the various times he was there, or are we now with the first occasion?

2 MR PUGLIATTI: In a short answer, yes, our intention was to elicit it sequentially
3 over the days in which those events happened --

4 PRESIDING JUDGE EBOE-OSUJI: All right.

5 MR PUGLIATTI: -- and to ask what may have happened in between as well, if
6 anything.

7 PRESIDING JUDGE EBOE-OSUJI: Okay. So right now you're at the very
8 beginning, the first occasion, is that it?

9 MR PUGLIATTI: As far as I'm aware, we're at the first night spent.

10 PRESIDING JUDGE EBOE-OSUJI: We will not mention the name of the
11 (Redacted) in public as the witness has not established how many people were there
12 on that occasion. So when we return to the public session, we will not mention the
13 name of the (Redacted).

14 MR PUGLIATTI: Mr President, my proposal was that it just be referred to as "the
15 school."

16 PRESIDING JUDGE EBOE-OSUJI: I was thinking along the same lines. All right.

17 MR KHAN: Mr President, can I just for the record clarify my learned friend, in
18 support of his argument, that at page 36, lines 8 and 9, is that school is in his
19 immediate vicinity where he lives and works and farms. Of course, that contradicts
20 the Prosecution's earlier evidence that the witness was not living here and is not
21 living in that location. So I don't want there to be any misapprehension regarding
22 that. (Redacted).

23 MR PUGLIATTI: It's the vicinity.

24 PRESIDING JUDGE EBOE-OSUJI: Nevertheless, we're not going to mention the
25 name of the school in public. We will just refer to it as "the school."

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1 Are you now ready to return to the public session?

2 MR PUGLIATTI: With the Court's leave, yes.

3 PRESIDING JUDGE EBOE-OSUJI: We will go back to the public session.

4 (Open session at 12.03 p.m.)

5 THE COURT OFFICER: (Interpretation) Mr President, we're in open session.

6 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, proceed.

7 MR PUGLIATTI:

8 Q. Mr Witness, we're back in public session. And just as a reminder, don't

9 discuss the name of where we were talking about in the private session. Please just

10 refer to it as I will as "the school." Do you understand?

11 A. (No interpretation)

12 Q. I heard the Swahili. I don't have a translation of that. Okay. Well, I will

13 proceed, Witness.

14 PRESIDING JUDGE EBOE-OSUJI: Can you admonish him again, or rather remind

15 him again that we need to have Swahili acknowledgment on the record.

16 MR PUGLIATTI: That's wise, your Honour.

17 Q. Witness, I'm just going to repeat what I said. We're back in public session, so

18 please don't discuss the name of where we were talking about in the private session.

19 Please just refer to it, as I will, as "the school." Do you understand that?

20 A. Yes, I do understand.

21 Q. Now, you've told the Court that you spent that night, the first night you

22 arrived at the school, you spent the night at the school. Where did you stay?

23 Where were you during that night at the school?

24 A. The women and children spent the night at the school. As for the men, we

25 stayed outside.

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1 Q. And what was your reason for staying outside the school?

2 A. We actually spent the night outside or outdoors in order to be able to see
3 whatever may have occurred so that we would be in a position to help those who
4 were within the school.

5 Q. Now, as you did that, did you see or hear anything out of the ordinary that
6 night?

7 A. While I was outside, some flashlights were switched on and could be seen
8 here and there while some men were singing some songs that were rather abnormal
9 for that time.

10 Q. Did you recognise these songs?

11 A. Those songs were in Kalenjin.

12 Q. Had you heard these songs before?

13 A. These songs are usually not heard at ordinary times. They are only sung
14 during initiations of the youth, during such rites. It is at those times that you can
15 hear those songs.

16 Q. Could you just expand if you're able to what you mean by "during initiations
17 or such rites," if there is any more detail you can give the Court about that?

18 A. When initiation rites are performed for the youth, this is usually a sacred or
19 secret activity, which is not open to the public, and it is at that time that you hear
20 these types of songs being sung and not at any other time.

21 Q. And did you hear anything else that evening that you remember?

22 A. Some women of Kalenjin ethnicity were shouting.

23 Q. Could you describe what you mean by the Kalenjin women were shouting?

24 A. You see, we heard some shouting or screaming.

25 THE INTERPRETER: And the Swahili interpreter requests that the witness be

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1 kindly asked to repeat his answer, which the interpreter didn't quite grasp, the first
2 part of the answer.

3 MR PUGLIATTI:

4 Q. Witness, the Court didn't hear your complete answer. Could you just repeat
5 the answer you just gave to my question, could you describe what you mean by the
6 Kalenjin women were shouting?

7 A. Those women were at the top of the mountains and were shouting and
8 screaming, but we could not understand what they were saying.

9 Q. Could you describe what sort of a noise they were making?

10 A. Well, you know, one can scream or shout when someone dies. That type of
11 screaming or shouting is different. But then you can have something that sounds
12 like a war cry, which is different from the previous one I just mentioned.

13 Q. Which one was it that you heard that night?

14 A. These screamings or shoutings came from people of Kalenjin ethnicity.

15 Q. Yes, I understand that, Witness. I just want to take you back to what you
16 said a moment ago. You said some screams are for when somebody dies, and some
17 are like a war cry. The noises you heard that night, which type were they?

18 A. Those were what I could refer to as war cries, because they came from the top
19 of the mountains where there were no houses.

20 Q. Witness, I just want to make sure the record is clear. Did you use the Swahili
21 word? Could you repeat the Swahili word for the war cries, please?

22 A. "Nduru." "Nduru" is the word I used in Swahili. "Nduru."

23 Q. Now, had you ever heard this type of war cry previously in the past?

24 A. No, I had never heard any such cry before.

25 Q. Now, Witness, you said a few moments ago that such songs are sung when

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1 there is an initiation of the youth taking place. To the best of your knowledge, did
2 any such initiations take place in your area close to this time? And please don't say
3 where your area is.

4 A. At that time young people went to perform or to those initiation rites during
5 the holidays. Everybody knew the elections would take place in December and,
6 therefore, that the circumcision of the young people would not take place at the
7 same time.

8 Q. Do you know what month that took place in?

9 A. Please kindly repeat your question.

10 Q. You said that the young people went to perform these initiations during the
11 holidays. Do you know what month that was?

12 A. During the holidays for the second term.

13 Q. The second term holidays if you know, Witness, take place in which month of
14 the year?

15 A. In August.

16 Q. Now, Witness, you told the Court that after spending the night in the school,
17 you went back to your house early. Don't say where your house is, but did you do
18 that?

19 A. I returned to my house in the morning after the first time.

20 Q. And what did you see when you got to your house?

21 A. My house had been destroyed and my property that was in the house had
22 been taken away.

23 Q. What about the houses close to your house, had anything happened to them
24 at all?

25 A. Yes. Nothing had happened to the houses of my neighbours who were of

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1 Kalenjin ethnicity.

2 MR PUGLIATTI: Your Honour, we've reached a phase where I'd request to go back
3 into private session for a few questions.

4 PRESIDING JUDGE EBOE-OSUJI: How long?

5 MR PUGLIATTI: Perhaps five minutes and then back into public.

6 PRESIDING JUDGE EBOE-OSUJI: All right. Private session.

7 *(Private session at 12.19 p.m.) (Reclassified as Open session)

8 THE COURT OFFICER: (Interpretation) We're in private session, Mr President.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you. Please proceed, Mr Pugliatti.

10 MR PUGLIATTI: I'm grateful, Mr President.

11 Q. Witness, we're back into private session for a few moments, so you may talk
12 freely.

13 After you checked on your house, did you check on any of your other properties or
14 businesses?

15 A. My property in the house had been taken away. But my cattle had not been
16 taken away.

17 Q. Did anything happen to your cattle later?

18 A. On the second day, my cattle was taken away. On that day when I returned
19 to the house, somebody showed up and asked me to hand over my cattle to him.

20 Q. Did you do --

21 THE INTERPRETER: From the Swahili booth, could the witness be kindly
22 requested to repeat the last part of his answer?

23 "No, I did not do that," says the witness.

24 MR PUGLIATTI:

25 Q. And what happened to your cattle?

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1 A. On the second day, my cows were taken away. When the cows were taken
2 away, on that very day, the houses were also torched.

3 Q. Now, Witness, what I had asked you was, after you checked on your house
4 and your possessions and your cattle at the house, did you go to any of your other
5 properties or businesses to check on them?

6 A. Yes, everything had been destroyed.

7 Q. So where did you go to check after your house?

8 Witness, do you need to take a break? We can take a break if that's what you need.

9 Your Honours, perhaps we could rise for a few minutes, if the Court is minded?

10 PRESIDING JUDGE EBOE-OSUJI: No, let's wait.

11 Witness, take your time. Take your time. We know all these stories can be very
12 difficult, and the Court understands that. So if you need to take your time, let us
13 know. Are you in a position to continue now, or would you like to take a few more
14 moments?

15 THE WITNESS: (Interpretation) I think we can continue.

16 PRESIDING JUDGE EBOE-OSUJI: All right, Mr Pugliatti.

17 MR PUGLIATTI:

18 Q. So, Witness, the question I had asked you was that after you had checked on
19 your house and your possessions, did you go to any of your other properties (Redacted)
20 (Redacted) to check on them and, if so, which ones?

21 A. I went to (Redacted) and on that day nothing had been taken out of (Redacted) on
22 that day.

23 Q. Now, did anybody come and speak to you while you were checking on (Redacted)
24 (Redacted)?

25 A. On that day no one came but for that individual who had asked me to hand

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1 my cows over to him.

2 Q. Did you subsequently check on (Redacted) again at a later time?

3 A. On that day I was at (Redacted), and at night (Redacted) was destroyed.

4 Q. Do you know who destroyed (Redacted)?

5 A. I am not in a position to know them. However, while I was in (Redacted), I

6 learned that someone (Redacted) had been destroyed. I heard some noises, and I

7 went out to see that (Redacted) was being destroyed. And when they had finished

8 destroying (Redacted), they came to mine. And at that time I fled. During my

9 absence, (Redacted) was destroyed, and (Redacted)

10 looted.

11 Q. Now, your friend (Redacted), what ethnicity was he?

12 A. He was Kisii.

13 Q. What was his name?

14 A. His name was (Redacted), his first name.

15 Q. Do you know his second name?

16 A. I knew him to be (Redacted).

17 Q. Now, the people who you saw --

18 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, do you have a spelling for the last

19 name of (Redacted)?

20 MR PUGLIATTI: Unfortunately not.

21 PRESIDING JUDGE EBOE-OSUJI: All right. Witness, did you say the name was

22 (Redacted)?

23 THE WITNESS: (Interpretation) His name was (Redacted).

24 PRESIDING JUDGE EBOE-OSUJI: (Redacted).

25 THE WITNESS: (Interpretation) (Redacted).

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- 1 PRESIDING JUDGE EBOE-OSUJI: (Redacted). I think we can manage the spelling
2 phonetically, (Redacted), something like that.
- 3 MR PUGLIATTI: Phonetically, yes, that sounds close.
- 4 Q. Now, Witness, the people that you saw destroying (Redacted), were you able
5 to tell what ethnicity they were?
- 6 PRESIDING JUDGE EBOE-OSUJI: Let me one second, please. I said (Redacted).
7 That should have been (Redacted), I think, (Redacted).
- 8 MR PUGLIATTI: That sounds closer, your Honour.
- 9 PRESIDING JUDGE EBOE-OSUJI: Sorry, court reporters.
- 10 MR BOSEK: Mr President, maybe I could help?
- 11 PRESIDING JUDGE EBOE-OSUJI: Yes, please.
- 12 MR BOSEK: Mr Witness, you meant to say (Redacted)?
- 13 THE WITNESS: (Interpretation) That's right.
- 14 MR BOSEK: (Redacted) is spelled as follows, (Redacted).
- 15 PRESIDING JUDGE EBOE-OSUJI: Mr Bosek, can you take that again?
- 16 MR BOSEK: Yes, Mr President. It is (Redacted).
- 17 PRESIDING JUDGE EBOE-OSUJI: Thank you. That's what I thought you said.
- 18 MR PUGLIATTI: I'm grateful to my learned friend.
- 19 Q. Witness, the question I had asked you a moment ago was could you tell the
20 ethnicity of the people that you saw destroying (Redacted)?
- 21 A. The people who destroyed (Redacted) were calling out in the Kalenjin
22 language.
- 23 Q. And did you hear what they were calling out in the Kalenjin language?
- 24 A. They were uttering cries, and I understood them and I -- well, you see, I knew
25 that they were Kalenjin people speaking, but I didn't understand. I just heard.

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1 Q. And approximately how many --

2 THE INTERPRETER: Correction from the interpreter --

3 THE WITNESS: (Interpretation) That these were cries of encouragement to burn
4 down the houses.

5 MR PUGLIATTI:

6 Q. And approximately how many of these individuals did you see at this time?

7 A. There were many people who were calling out, about 50.

8 Q. And did you have the opportunity to speak to anybody again while you were
9 checking on (Redacted)?

10 A. That night I fled, and I went back to my family to the place where they had
11 stayed behind.

12 Q. And, Witness, we're in private session, so I'll ask you where were your family
13 at this time?

14 A. I had left my family (Redacted).

15 Q. Okay. I will come to that in a few moments. I just had one more question
16 about (Redacted). When you said they were destroying (Redacted), can you be
17 more specific? Can you explain what you saw, please?

18 A. There was all kinds of shouting, and I heard people destroying (Redacted).

19 Q. How was (Redacted) destroyed? What did they do to (Redacted)?

20 A. I couldn't tell you. (Redacted). I don't know exactly
21 how they destroyed (Redacted), but I could hear the people
22 shouting, and I could hear them hitting (Redacted) to destroy it.

23 Q. Did you see (Redacted) after it had been destroyed?

24 A. No.

25 Q. Now, you said a moment ago that you fled to your family, who were (Redacted)

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1 (Redacted). Where (Redacted) were your family at this stage?

2 A. My family was with other ethnic groups there, and they were at the DOAC
3 office.

4 Q. Can you tell the Court what the DOAC stands for, if you know?

5 THE INTERPRETER: Correction from the interpreter: It was not DOAC.

6 THE WITNESS:

7 A. I can't tell you more. But DO or Dayo (phon) and DC, those are the
8 government officials, DO and DC.

9 Q. So I understand it is DO; is that correct?

10 A. That's right.

11 Q. Would it be correct to describe that as a police office?

12 A. It is not a police office.

13 Q. Can you tell the Court what it is in that case?

14 A. DO is quite different from the police. The police make sure that people are
15 safe, whereas the DO is probably the person who is in charge of the district.

16 MR PUGLIATTI: Mr President, this is a juncture where once again we submit that
17 with caution we can go back into public session, provided that the exact location
18 isn't revealed.

19 PRESIDING JUDGE EBOE-OSUJI: And do we know how many people who would
20 have been taking refuge at the DO's and/or the DC's offices?

21 MR PUGLIATTI: Of course I can ask the witness that. Our understanding is that
22 there were a good number. Again, we're not certain. I don't want to pre-empt
23 anything, but we do feel that caution as to the exact location is required, but that a
24 description of what was seen there could be done publicly provided the location is
25 not revealed. But perhaps if I asked the witness the number, that might assist the

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1 Court.

2 PRESIDING JUDGE EBOE-OSUJI: There had been testimony, I no longer recall if it
3 was done in public or private session, about (Redacted)
4 (Redacted), and these were ethnicities of people of the Luo, Kikuyu, Kisii, Luhya
5 ethnic groups.

6 MR PUGLIATTI: I'll be corrected if I am wrong. My recollection is that was
7 elicited privately.

8 PRESIDING JUDGE EBOE-OSUJI: All right. But then let's establish the number of
9 people, because if there are a lot of people there, we'll then have to find another
10 reason to remain in private session for that or do not mention, rather, do not mention
11 those offices in public.

12 MR PUGLIATTI:

13 Q. Witness, when you arrived at the (Redacted), if you can,
14 approximately how many people did you see there?

15 A. There were many people. It's not as though I could count them all. Estret
16 (phon) was there. Several thousand people.

17 PRESIDING JUDGE EBOE-OSUJI: What about the (Redacted)

18 THE WITNESS: (Interpretation) (Redacted) are at the same particular location.
19 There were many people there.

20 PRESIDING JUDGE EBOE-OSUJI: All right. Mr Pugliatti, do we need to keep the
21 location from public?

22 MR PUGLIATTI: For one or two questions it could be public, now that that's been
23 clarified.

24 PRESIDING JUDGE EBOE-OSUJI: All right. So we will go back to public session,
25 is that it?

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1 MR PUGLIATTI: I'm grateful, your Honour.

2 PRESIDING JUDGE EBOE-OSUJI: We'll go back to public session.

3 (Open session at 12.45 p.m.)

4 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

5 MR PUGLIATTI:

6 Q. Witness, I just asked you a couple of questions about the (Redacted)

7 (Redacted). You told the Court a few moments ago that you saw thousands of

8 people there. Can you please tell the Court from your observations what ethnicities

9 you saw there?

10 A. There were Kisiis, Kikuyus, Luos, and Luhyas.

11 Q. Did you see any other groups or is that it?

12 A. There were also a great many Kalenjin people. The DO was asking them to
13 go back home. But they were calling out saying that they were going to stay there.

14 Q. And do you know where these people had come from?

15 A. I'm not in a position to know where they were from.

16 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, one second please.

17 Please proceed.

18 MR PUGLIATTI:

19 Q. Now, Witness, did you spend the night that you arrived there, did you spend
20 that night (Redacted)?

21 MR KHAN: Your Honour, I object. It may be a pointless exercise, but I do object
22 for leading.

23 MR PUGLIATTI:

24 Q. Witness, where did you spend that night, the night that you arrived (Redacted)

25 (Redacted)?

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1 A. When I got to that place, none of my family members were there. So I went
2 to Songhor police station, and on my way back I spent the night there. But during
3 the night I decided to flee, because my family was not there.

4 Q. Let's just take that one step at a time, Witness. You told the Court that
5 originally (Redacted) is that correct?

6 A. Yes. (Redacted).

7 Q. And now you say that --

8 PRESIDING JUDGE EBOE-OSUJI: Okay. One second. Private session, please.

9 *(Private session at 12.49 p.m.) (Reclassified as Open session)

10 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

11 PRESIDING JUDGE EBOE-OSUJI: The Songhor police station coming onto the
12 record, Mr Pugliatti, is this something we should worry about for public broadcast?

13 MR PUGLIATTI: The best way to approach it I suggest, your Honour, is to conduct
14 the same exercise. Again, we're not certain, we haven't elicited yet, but this would
15 be an opportune moment to elicit the number of people that may have been there,
16 and if that in of itself would be identifying. So with your leave, I'll do that now.

17 PRESIDING JUDGE EBOE-OSUJI: All right.

18 MR PUGLIATTI:

19 Q. Witness, when you went to Songhor police station, did you see other people
20 there?

21 A. Yes, there were people there.

22 MR PUGLIATTI: Just for the record, I believe that's S-O-N-G-H-O-R.

23 Q. Witness, approximately how many people did you see when you got to
24 Songhor police station?

25 A. No, I couldn't tell you how many. There were many people. And there was

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1 no assistance for them.

2 Q. Was it more, was it less, or was it the same approximately as the number of
3 people (Redacted)?

4 A. Fewer people.

5 Q. Would you describe it if you can in the tens, the hundreds or more?

6 PRESIDING JUDGE EBOE-OSUJI: Let's do it this way. Witness, were there more
7 than 100 people there?

8 THE WITNESS: (Interpretation) Around a hundred.

9 PRESIDING JUDGE EBOE-OSUJI: We can leave that on the record.

10 MR PUGLIATTI: I'm grateful, your Honour.

11 PRESIDING JUDGE EBOE-OSUJI: All right. We'll go back to public session, but
12 before we do you were about to embark upon a line of questions before I intervened.
13 Do we do it in public, or private?

14 MR PUGLIATTI: Your Honour, I would say private out of caution. We have
15 established there were a large number of people (Redacted), but nonetheless, the
16 individual circumstances, the individual story of this witness may be such that it
17 stands out.

18 PRESIDING JUDGE EBOE-OSUJI: All right. Let's see how it goes and then we'll
19 see. Proceed, please.

20 MR PUGLIATTI: If the Court can bear with me for just a moment?

21 Q. Witness, you told the Court a moment ago that when you returned to (Redacted)
22 from Songhor, that none of your family members were there. At that time did you
23 know where they had gone?

24 A. I didn't know where they had gone. Later, I found out. When we met up
25 again they told me where they had gone to to hide.

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1 Q. So at the time that you returned there and couldn't find them, not knowing
2 where they had gone, did you try to look for them?

3 A. I did not find them again, and I didn't know where they had gone.

4 Q. Okay. I will come to that in a moment. Just to ask you about the people
5 you saw at Songhor police station, you were asked about that a few moments ago,
6 were you able to observe what ethnicities the people at Songhor were?

7 A. Luo, Luhya, Kisii, and Luhya.

8 PRESIDING JUDGE EBOE-OSUJI: Mr Pugliatti, you have five minutes until 1 and
9 that would be the end of the second session, if I understand your earlier promise or
10 indication of time.

11 MR PUGLIATTI: Your Honour, we're exceedingly close to finishing. We are
12 almost at the end of the questions we'd like to ask. We're aware of the time and the
13 five minutes before the recess. With the Court's indulgence we'd seek ten to 15
14 minutes after that and no more to just wrap up the witness's testimony and ask him
15 what happened to him and his family afterwards, but it really would be just a few
16 minutes to elicit that information and clarify one or two other matters with the
17 Court's leave.

18 PRESIDING JUDGE EBOE-OSUJI: Proceed.

19 MR PUGLIATTI:

20 Q. Witness, the Luo, Luhya, Kisii, and Luhya people that you saw at Songhor, do
21 you know why they were there?

22 A. They were there to get assistance.

23 Q. Why did they need assistance?

24 A. Some of them wanted to be taken to a place where things were safe, but the
25 police said to them that they weren't able to provide them with any help.

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1 Q. Do you know where they had come from?

2 A. I'm not in a position to know that.

3 MR PUGLIATTI: Your Honour, that would be a good moment.

4 PRESIDING JUDGE EBOE-OSUJI: And you say you need another ten minutes or
5 so after the lunch break?

6 MR PUGLIATTI: Ten and absolutely no more than 15.

7 PRESIDING JUDGE EBOE-OSUJI: All right. We will be rising for lunch.

8 Witness, we will be rising now for lunch and then you will rejoin us at 2.30. Please
9 do not discuss your testimony during the lunch break. Thank you.

10 Blinds down, please.

11 *(Closed session at 12.58 p.m.) (Reclassified as Open session)

12 THE COURT OFFICER: (Interpretation) We are in private (sic) session, your
13 Honour.

14 (The witness stands down)

15 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

16 THE COURT OFFICER: All rise.

17 (Recess taken at 12.59 p.m.)

18 (Upon resuming in open session at 2.37 p.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

22 Witness, welcome back.

23 Mr Pugliatti?

24 MR PUGLIATTI:

25 Q. Witness, you told the Court in the last session about initiation rights and you

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1 stated that when initiation rights are performed for the youth, this is usually a secret
2 or sacred -- secret or sacred activity not open to the public. Could you just tell the
3 Court, if you know, a little more about what happens at these initiations?

4 A. I am familiar with them. This is something that I'm -- I know quite a bit
5 about.

6 Q. Could you just tell the Court a bit about what happens, what takes place at
7 these initiations.

8 A. During the initiation when the children have to be circumcised, this is one
9 way to prove that you have grown up. You have to learn about the activities of
10 adults.

11 Q. And how is it that you know about these things?

12 A. I am familiar with this initiation process because -- because even my brothers
13 were initiated.

14 MR PUGLIATTI: Your Honour, I'm going to move to a different topic, and I would
15 seek to go into private session for that at this stage. Thank you.

16 PRESIDING JUDGE EBOE-OSUJI: And for how long?

17 MR PUGLIATTI: Just a handful of minutes, three or four or five I'd imagine, and
18 then that will be the end of the Prosecution's questions.

19 PRESIDING JUDGE EBOE-OSUJI: All right. Then we will go to private session.

20 *(Private session at 2.40 p.m.) (Reclassified as Open session)

21 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

22 PRESIDING JUDGE EBOE-OSUJI: Please proceed.

23 MR PUGLIATTI:

24 Q. Witness, we're now in private session. When we left off at the end of the last
25 session, you told the Court that when you returned (Redacted) you

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1 said that you had -- you could no longer find your family members. My question is
2 this: After you were separated from your family, can you tell the Court what
3 happened to your family members?

4 A. My family suffered. They went through some very difficult moments.

5 Q. Can you tell the Court when and where you found your family?

6 A. I met up with them for a short period of time because you see, there was one
7 vehicle that helped them and took them to a road that leads towards Kisumu, a place
8 called (Redacted) (phon).

9 Q. And where did you ultimately find your family again?

10 A. That was after a while, because I too, I fled to seek safety. I went to find my
11 wife in her home to find out what had happened to her, and I met up with them
12 again at that place.

13 Q. And was your entire family there when you met up with them?

14 A. I met up with them there but not the entire family. (Redacted)
15 (Redacted).

16 Q. And can you tell the Court as best you can, after you found these members of
17 your family, what happened to you and your family?

18 A. When I met up with them again, we all cried because my family thought that I
19 had died. Myself, I thought that they had died.

20 Q. And going forward from then, what happened to you and your family, if you
21 can?

22 MR KHAN: Mr President, with your leave, before that the witness gives an
23 important answer at page 61, lines 4 and 5, saying that (Redacted)

24 (Redacted). It's my respectful submission that evidence should be led as to the
25 identity of (Redacted) so we can have a full record. It's an important aspect of the

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1 witness's account.

2 PRESIDING JUDGE EBOE-OSUJI: Is that what you -- Mr Pugliatti, if you want to
3 pursue that line of questioning, you may do so. If not, Defence counsel can explore
4 it.

5 MR PUGLIATTI: I'll ask the question.

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 A. (Redacted) (Redacted)

11 Q. (Redacted)

12 A. (Redacted).

13 Q. (Redacted)?

14 A. (Redacted)

15 Q. Witness, my last question today: Were you ever able to go back home after
16 what happened to you?

17 A. No, I never went back home. I don't think I could go back home.

18 MR PUGLIATTI: Mr President, those are the Prosecution's questions. Thank you
19 very much.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you.

21 Witness, the Chamber's greatest sympathy goes to you (Redacted) as

22 you've testified. You indicated that (Redacted)

23 (Redacted), and you also said that (Redacted). Can you tell us

24 when that happened, (Redacted)? Was it at the time of the

25 post-election violence, or was it later? Can you tell us?

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1 THE WITNESS: (Interpretation) (Redacted)

2 (Redacted)

3 THE INTERPRETER: Corrects the Swahili interpreter --

4 THE WITNESS: (Interpretation) -- (Redacted).

5 PRESIDING JUDGE EBOE-OSUJI: All right. We will leave it there for now.

6 Mr Nderitu, you may consider taking up the matter. Hopefully the passage of time

7 between now and when you start asking questions might give the witness enough

8 time to return to it, if need be. Okay, but we can see that clearly this is an emotional

9 matter for the witness regardless of when he would have (Redacted). Yes,

10 thank you.

11 Prosecutor, would you have any questions arising at this time from the one I just

12 put?

13 MR PUGLIATTI: None, Mr President. Thank you.

14 PRESIDING JUDGE EBOE-OSUJI: All right.

15 (Trial Chamber confers)

16 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, the Chamber grants you leave to

17 ask the witness questions.

18 MR NDERITU: Thank you, Mr President, your Honours.

19 QUESTIONED BY MR NDERITU:

20 Q. Mr Witness, good afternoon.

21 A. I am well.

22 Q. Let me start, Mr Witness, by letting you know that I will need to ask a good

23 number of questions which you may find distressing, and I would like you to bear

24 with me. Do you understand me?

25 PRESIDING JUDGE EBOE-OSUJI: Witness, perhaps I should have introduced

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1 Mr Nderitu.

2 Mr Nderitu, does the witness -- have you already met with the witness outside the
3 courtroom?

4 MR NDERITU: Unfortunately, Mr President, we have not met yet, but during our
5 courtesy visit last Friday he was informed about my coming today.

6 PRESIDING JUDGE EBOE-OSUJI: All right.

7 MR NDERITU: Thank you.

8 PRESIDING JUDGE EBOE-OSUJI: Witness, Mr Nderitu is a lawyer who represents
9 victims, people who suffered during the post-election violence. As you know
10 yourself, there was a form that was filled by people who -- well, which you yourself
11 filled as well as a victim in the case.

12 We have a system in this Court where a lawyer is appointed to represent victims,
13 and that includes people like you who suffered personally. He will ask you
14 questions, but he will try to avoid asking you the same questions that the Prosecutor
15 asked you. So in a sense, Mr Nderitu is considered to be your lawyer. Ordinarily,
16 you would have met with him by now, but as things happen, that wasn't -- it didn't
17 happen, but that's where we are.

18 So he has some questions to ask you. He has already indicated that some of the
19 questions he will ask you will be difficult. It doesn't mean he's here to make your
20 life deliberately difficult. He's just telling you ahead of time that you may find
21 some of those questions emotionally difficult. But he knows to be sensitive to you
22 and the Chamber is also here to make sure that even though he is your lawyer, he
23 also remains sensitive to your needs. Do you understand?

24 THE WITNESS: (Interpretation) Yes, I've understood.

25 PRESIDING JUDGE EBOE-OSUJI: All right. Mr Nderitu, let's begin. We're now

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1 in private session. Do you wish to remain here? I take it you do?

2 MR NDERITU: Mr President, I think I will want to remain in private session, but
3 just a clarification and the witness could correct me. Initially I had understood your
4 Honour to mean having met him within the context of the Court, but the witness
5 will confirm that (Redacted) I did meet him at a location in Kenya together with
6 other victims.

7 PRESIDING JUDGE EBOE-OSUJI: All right. That is --

8 MR NDERITU: Perhaps he could confirm that?

9 PRESIDING JUDGE EBOE-OSUJI: That is good to know.

10 MR NDERITU:

11 Q. Mr Witness, I was just clarifying that I have met you before, and you may just
12 want to confirm that that is the case, (Redacted)?

13 A. Yes, I remember that.

14 Q. Thank you, Mr Witness. Now, I will start with the evidence that you had
15 given just before we broke for lunch and you did in your evidence state that you
16 (Redacted). Now, my question to you (Redacted).

17 A. (Redacted)

18 (Redacted)

19 Q. Could you be more specific? When you say (Redacted)
20 (Redacted)?

21 A. (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, the question is both leading and
25 vague.

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1 MR NDERITU: Thank you, Mr President. Yes, I do appreciate the vagueness and
2 the leading nature of it, but the intention was to have it as an introductory question,
3 to build on it.

4 PRESIDING JUDGE EBOE-OSUJI: When you start saying (Redacted)
5 that's what makes it leading.

6 MR NDERITU: Thank you, Mr President.

7 Q. (Redacted)

8 (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted)

21 MR NDERITU: Mr President, your Honours, I think we may just for the next few
22 questions, and even those I think there really might not be much need to remain in
23 private session, and I will revert to private session when we get into questions about
24 the family.

25 PRESIDING JUDGE EBOE-OSUJI: So you do not consider that asking questions

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1 that reveal this witness's business (Redacted) is problematic in public?

2 MR NDERITU: Your Honour, I don't think this is problematic as such, based on my
3 own knowledge of the (Redacted)
4 (Redacted) and given that we will not even go into the detail of the exact locality
5 where the witness lived.

6 PRESIDING JUDGE EBOE-OSUJI: Prosecution, you have an interest in that matter.
7 It isn't an exclusive concern of the victims' counsel. What's your view?

8 MR PUGLIATTI: Of course we leave it in the hands of the Chamber, but the
9 Prosecution recalls that any information indicating that the witness (Redacted)
10 (Redacted) was elicited privately.

11 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, let's -- if you're going to take
12 account of (Redacted), we should do that in private session. If you're done with
13 that, then we can move outside.

14 MR NDERITU: Very well, Mr President.

15 Q. (Redacted)

16 (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted).

20 MR NDERITU: (Overlapping speakers)

21 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, I know you are -- looks like you're
22 listening to Swahili, but overlapping speech is happening. All right. Proceed now.

23 MR NDERITU: Thank you, Mr President.

24 Q. Mr Witness, you say that there was (Redacted), and I'm interested in knowing
25 about (Redacted) at the time of the destruction of

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1 (Redacted)

2 A. (Redacted).

3 Q. (Redacted)

4 A. (Redacted)

5 THE INTERPRETER: From the Swahili booth, can the witness be asked to repeat
6 his answer?

7 MR NDERITU:

8 Q. Mr Witness, I will ask you the question again. (Redacted)

9 (Redacted)

10 A. (Redacted).

11 Q. (Redacted)

12 (Redacted)

13 A. If the calculation leads to that answer, then that is it.

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. Thank you, Mr Witness. Would you please just clarify your last answer.

19 You say that you (Redacted). I would want to understand

20 what you mean by you (Redacted).

21 A. Well, the reason I mentioned that figure is because (Redacted)

22 (Redacted) so to

23 speak.

24 Q. Thank you, Mr Witness. I would want to understand still about this figure of

25 (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, can we -- can you take that question
3 again in simpler terms to the witness.

4 MR NDERITU: Thank you, Mr President.

5 Q. Mr Witness --

6 PRESIDING JUDGE EBOE-OSUJI: All right, let's do this. Witness, you mentioned
7 the figure (Redacted). What we're trying to understand is are you saying that
8 (Redacted)

9 THE WITNESS: (Interpretation) That is correct.

10 MR NDERITU:

11 Q. Thank you, Mr Witness. That clarifies it. Now, when you talked about
12 destruction (Redacted), I am interested in knowing whether you were able to
13 (Redacted)

14 (Redacted)

15 A. I can't say that I was able to (Redacted)

16 I fled. I never returned there.

17 Q. And, Mr Witness, do I get you to be saying that when the destruction (Redacted)
18 (Redacted), you were there and you fled as the destruction took place?

19 A. When (Redacted) was destroyed, they started shouting and started
20 coming in the direction of (Redacted). That is when I fled. From my hiding place I
21 was able to hear (Redacted) being destroyed.

22 Q. Thank you, Mr Witness. Now, for how long had you (Redacted)
23 (Redacted)

24 A. (Redacted)

25 Q. Mr Witness, I would like you to give me a bit more precision in this

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1 connection. How many years? A year, two years, five years, ten years? How
2 long?

3 A. (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Mr Witness, I'm interested, (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Thank you, Mr Witness. Now, let's go now to the question relating to land
19 that you owned, and I would want you to confirm how many parcels of land you
20 owned in all.

21 A. I had two plots of land.

22 Q. Were these two plots owned by you absolutely or were they rented by you or
23 held in any other capacity?

24 A. Those two plots of land belonged to me.

25 Q. Thank you. Please give me the respective sizes of the two plots of land.

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1 A. One of the plots was (Redacted) and the second one was (Redacted).

2 Q. Thank you. Now, on the parcel that was (Redacted), how much of it had you
3 devoted to farming?

4 A. In that -- on that plot I raised cattle and I also farmed there.

5 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, we are in closed session. The
6 ruling about remaining in private session the last time was about (Redacted)

7 (Redacted) that may reveal the identity of the witness as (Redacted). It doesn't

8 mean we will remain in private session for all purposes. So are these questions that
9 you believe could safely be asked in open session?

10 MR NDERITU: Yes, your Honour. I think I could ask the questions in open
11 session.

12 PRESIDING JUDGE EBOE-OSUJI: All right.

13 MR PUGLIATTI: Mr President, if I may, just to clarify from the Prosecution's
14 perspective, the locations of those farms -- the fact that the witness was a farmer is
15 not extraordinary, but the locations of those farms we would -- we would bring that
16 to the attention.

17 PRESIDING JUDGE EBOE-OSUJI: Do you want to ask questions about locations,
18 Mr Nderitu? If so, you can do so now. Or is this something that we need not
19 pursue, locations of the farm -- of the real estate?

20 MR NDERITU: Your Honour, the locations are not quite material to my
21 examination, and it will be sufficient for me to refer to the (Redacted) parcel and the
22 (Redacted) parcel and that could have been owned by anybody.

23 PRESIDING JUDGE EBOE-OSUJI: Right. It may be safer the larger parcel and the
24 smaller parcel.

25 MR NDERITU: Yes.

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1 PRESIDING JUDGE EBOE-OSUJI: All right. We will go to the public session.

2 (Open session at 3.25 p.m.)

3 THE COURT OFFICER: (Microphone not activated)

4 MR NDERITU: Thank you, Mr President.

5 Q. Mr Witness, we are now in open session, which means that you should be

6 cautious about the answers that you give, and I would ask you if you feel that there

7 is any question that I ask you that could reveal your identity, just raise up your hand

8 and then we will be able to deal with that.

9 Now, you indicated that you had two parcels of land, one larger and one smaller.

10 And we were dealing with the larger parcel of land, and you said that you kept

11 cattle on that parcel of land. I would want to know how many head of cattle did

12 you keep on that larger piece of land?

13 A. I had seven cows.

14 Q. Mr Witness, are you able to give an approximate value to the seven cows that

15 you had?

16 A. Those seven cows, well, I had bought them for 10,000 shillings -- 7 to 10,000

17 shillings.

18 Q. I am more interested in what their value was as at the time of the post-election

19 violence rather than their value or their cost that you had to pay for them at the time

20 that you purchased them. So would you please inform the Court approximately

21 how much they would have been valued at.

22 A. At that time I could have sold those cows for more than 140,000 shillings.

23 Q. Mr Witness, just so that we are together, the figure of 140,000 shillings that

24 you have given, would that represent the total value of the seven cows or -- yes,

25 would it represent the total value of the seven cows?

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1 A. Yes, that would be the value of the seven cows.

2 Q. Thank you. And did you keep any other livestock on the larger parcel of
3 land?

4 A. No. I didn't have any other cattle. I just had some hens.

5 Q. And how many hens did you have?

6 A. I couldn't tell you because our custom is that women are the ones who raise
7 hens. So I really wouldn't be in a position to know how many hens my wife had.

8 Q. Thank you, Mr Witness. Now, was any acreage out of the larger parcel of
9 land under any crop?

10 A. I can't give you details about that. If I were to do so, people could identify
11 me. (Redacted).

12 PRESIDING JUDGE EBOE-OSUJI: All right. Mr Nderitu, we'll attend to that. In
13 the meantime, you asked the witness the question whether there was any other
14 livestock and the answer was -- at least the record indicates the answer to be no, he
15 didn't have any other cattle. I don't know if you're satisfied with the answer or you
16 want to be sure that we've exhausted livestock.

17 Let's go into private session for a quick minute.

18 *(Private session at 3.33 p.m.) (Reclassified as Open session)

19 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. For the record, what
21 will be broadcast should not -- (Redacted)

22 (Redacted)

23 Now we go back into public session.

24 MR NDERITU: Perhaps, Mr President, before we do so, I could then just take
25 advantage and ask --

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1 PRESIDING JUDGE EBOE-OSUJI: You want us to remain in private session?

2 MR NDERITU: Just for a very small bit, because what the witness said is that if he
3 stated what he grew then that could reveal his identity.

4 PRESIDING JUDGE EBOE-OSUJI: Yes, indeed. That's true. Indeed. So we will
5 remain in private session.

6 MR NDERITU: Much obliged.

7 Q. Mr Witness, would you tell the Court what crop you grew on this larger
8 parcel of land, what crop or crops you grew?

9 A. I was a farmer and I grew vegetables and fruit. I had some fruit trees.

10 Q. Yes, thank you, Mr Witness. Would you please confirm exactly what
11 vegetables and what fruits you grew so that we have that clearly.

12 A. (Redacted)

13 (Redacted)

14 MR KHAN: Mr President, with your leave, now we're in private session, I wonder
15 if my learned friend would be so kind as to lead specificity regarding the address or
16 location of these premises. We have a larger plot and a smaller plot. As we are in
17 private session, I'd ask that the witness be asked to specify more information in that
18 regard.

19 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, can you work that into your
20 questions and also let us know when you will be done with the witness.

21 MR NDERITU: Thank you, Mr President. First of all, with regard to how soon I
22 expect to be done, taking that we have only 20 or so minutes, I would estimate that I
23 would need another 20 minutes or so after these 20 minutes. I am seeing that I may
24 finalise tomorrow morning and there are a couple of reasons for that. One, because
25 of the pace at which we are going and, secondly, because your Honour the questions

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1 about the family are what I would want to reserve for tomorrow. I think in my
2 estimation the witness has had a long day and I do not think that I would want to
3 explore those questions right away, but on the outside it would be really 20 minutes
4 tomorrow morning.

5 PRESIDING JUDGE EBOE-OSUJI: All right. Proceed.

6 MR NDERITU: Thank you, Mr President.

7 Q. Mr Witness, would you confirm where the (Redacted) piece of land was situated?

8 A. It was in (Redacted).

9 Q. And, Mr Witness, while we're at it, where was the (Redacted) piece of land
10 situated?

11 A. In (Redacted).

12 Q. And going back to the -- to the responses that you gave us, you talked about
13 growing vegetables and fruits, fruit trees, and I would like you to inform the Court
14 what acreage was under vegetables, what acreage was under fruit trees or whether
15 indeed the vegetables and fruit trees had been intercropped.

16 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, I'm trying to understand the
17 orientation of that question. Does it matter for your purposes? If so, why?

18 MR NDERITU: Yes, Mr President, it does matter for the reason that there would
19 ordinarily be two scenarios. One where the vegetables and the fruit trees would be
20 under distinct portions of the parcel of land or where there would be intercropping,
21 in which case then it would be -- I would be quite happy with either answer
22 depending on the nature of the parcel of land, how it had been put to use so that --

23 PRESIDING JUDGE EBOE-OSUJI: I thought we were -- the reason I asked that,
24 you're interested in understanding how much the witness suffered, isn't it? Do we
25 have to start mapping out what parcel of land on which such suffering occurred or

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1 the damages that resulted to him occurred? The idea is we need to ask -- we don't
2 want to detain this witness too much, so the fewer questions we ask of him the
3 better, not only for his purposes, but for the entire process as well.

4 MR NDERITU: Thank you, Mr President. Much appreciated.

5 Q. Mr Witness, very quickly, if you could just indicate the respective acreages of
6 the vegetables and of the fruit trees and if you could kindly give us a value as to
7 what was on the ground as at the time of the post-election violence. I do not know
8 if you have understood my question.

9 A. (Redacted)

10 MR KHAN: Mr President, again I apologise, but hopefully my learned friend will
11 accommodate me. The witness has stated he had (Redacted), and a couple of days
12 ago he referred to (Redacted). I wonder if we could have
13 clarification. (Redacted) That would be useful to know, and I would be grateful to
14 my friend for his assistance.

15 MR NDERITU: Thank you.

16 Q. Mr Witness, before I ask you the question that has been suggested by my
17 learned colleague, (Redacted) other
18 vegetables that were on your farm as at the time of the violence. If you do, then
19 please let us know. If you do not, just say that you do not know.

20 A. I couldn't give you an estimate of the value of the vegetables that I grew
21 because you couldn't sell them all in one day.

22 PRESIDING JUDGE EBOE-OSUJI: Mr Nderitu, if your purpose in trying to
23 ascertain the proportion or the acreage devoted to the various crops discretely, if
24 your aim is to then assist in getting an idea of the quantity of that particular crop
25 that would have been grown under that, then you may see if you can get that answer

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1 from the witness.

2 MR NDERITU: Thank you, Mr President.

3 Q. Mr Witness, as at the time of the post-election violence, and I'm talking
4 basically in December of 2007, how much would you say you were getting in profit
5 from (Redacted) that you had on the farm in -- on the larger
6 part of land -- parcel of land?

7 A. (Redacted)
8 (Redacted).

9 Q. And, Mr Witness, for the sake of clarity, when you say (Redacted)
10 (Redacted), this was over what period of time?

11 A. That represents one season, the crop from one growing season.

12 Q. Mr Witness, how many seasons would you have in a year?

13 A. Two.

14 Q. Thank you very much. Now, what about the fruit trees, how much profit
15 were you making from growing fruit?

16 A. The profit that I mentioned was for both the vegetables and the fruit.

17 Q. Mr Witness, let me understand you. Did you say that the profit you
18 mentioned was for both the vegetables and the fruit?

19 A. That was just for the fruit.

20 Q. Thank you. And for the fruit, what fruit are you referring to? Please
21 indicate what fruit that is.

22 A. (Redacted).

23 Q. And, Mr Witness, what profit were you getting from vegetables on average
24 and what vegetables were those?

25 A. (Redacted)

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1 Q. Thank you. And did you grow any other vegetables on the larger parcel of
2 land?

3 A. Those were the fruit and vegetable that I was growing.

4 Q. Thank you, Mr Witness. Now, let's go to the smaller parcel of land, (Redacted)
5 (Redacted), and --

6 PRESIDING JUDGE EBOE-OSUJI: (Redacted) Mr Nderitu, that was
7 to you.

8 MR NDERITU: Yes. Thank you, Mr President. That had escaped my attention.

9 Q. Mr Witness, (Redacted)
10 (Redacted)
11 (Redacted)

12 A. (Redacted)
13 (Redacted)
14 (Redacted)

15 Q. Thank you, Mr Witness. So let us now go to the (Redacted) parcel of land.

16 PRESIDING JUDGE EBOE-OSUJI: Before you do, can we get the value of the
17 (Redacted)
18 If so, how much?

19 MR NDERITU: Thank you, Mr President.

20 Q. Mr Witness, (Redacted)
21 (Redacted) Now, you had also talked about your farm (Redacted)
22 (Redacted). Now, I would want you to tell us more
23 about (Redacted). First of all, what variety were they? Were they -- if I may -- no.
24 Let me just ask. What variety were they?

25 MR KHAN: Your Honour, could my learned friend be so kind as to give a

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1 reference to the witness talking about being (Redacted)

2 (Redacted) as is posited at page 82, line 5 and 6?

3 PRESIDING JUDGE EBOE-OSUJI: We will get to that later, but let's first of all clear
4 up this matter of (Redacted).

5 MR NDERITU:

6 Q. Yes, Mr Witness, could you confirm the variety of (Redacted)?

7 A. They were a variety of (Redacted).

8 THE INTERPRETER: Correction: (Redacted)

9 MR NDERITU:

10 Q. Thank you, Mr Witness. Mr Witness, what I'm interested in knowing is
11 whether (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE EBOE-OSUJI: Isn't it better to just get the value of the stocks
16 that have been put in the ground by him rather than (Redacted)
17 (Redacted)?

18 MR NDERITU:

19 Q. Mr Witness, what value would you place on the (Redacted)
20 (Redacted)?

21 A. (Redacted), so I couldn't tell you what the value
22 would have been. But to answer your first question, it was (Redacted)
23 (Redacted).

24 PRESIDING JUDGE EBOE-OSUJI: How much did those (Redacted), as it
25 were, how much did they cost you to buy, if you bought them, to put on the ground?

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1 THE WITNESS: (Interpretation) I didn't buy them. (Redacted)

2 (Redacted).

3 PRESIDING JUDGE EBOE-OSUJI: Thank you.

4 MR NDERITU: Thank you, Mr President, your Honours. I think just to answer
5 my learned friend Mr Khan, yes, indeed there was -- it was an error on my part, and
6 this stems from page 75, lines 6 to 8 where the witness (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE EBOE-OSUJI: All right.

10 MR NDERITU: Just to set the record straight. Sorry, it was my mistake.

11 PRESIDING JUDGE EBOE-OSUJI: It is now 4 o'clock. We should leave it there.

12 MR KHAN: Mr President, with your leave, I sat down, but I did ask a question that
13 my learned friend promised me he would address. The witness stated that the
14 smaller parcel was in a place called (Redacted). He previously stated that he lived on
15 (Redacted) and I want a clarification if it is the same place.

16 PRESIDING JUDGE EBOE-OSUJI: All right. We will do just that question and
17 then we will adjourn and return tomorrow.

18 MR NDERITU: Thank you, Mr President, your Honours.

19 MR NDERITU:

20 Q. Mr Witness, the (Redacted) parcel of land, I would want you to tell the Court
21 whether this was the parcel of land that was at (Redacted) or whether it was at (Redacted)
22 or whether (Redacted)?

23 A. It was in (Redacted).

24 Q. Thank you, Mr Witness. And what was at (Redacted)?

25 A. Could you please ask your question again?

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1 Q. Thank you, Mr Witness. My question is did you have a parcel of land at
2 (Redacted), and if you did, what was its size?

3 A. I didn't have any land at (Redacted).

4 Q. Thank you.

5 MR NDERITU: Mr President, your Honours, I think we could break there for
6 today.

7 PRESIDING JUDGE EBOE-OSUJI: Witness, thank you very much. We will stop
8 the proceedings for the day at this point in time and then return again tomorrow at
9 9.30. You will join us at that time. You remain on the stand as a witness and
10 please do not discuss your testimony overnight with anybody.

11 The blinds will come down now for the witness to be ushered out of the courtroom.

12 *(Closed session at 4.02 p.m.) (Reclassified as Open session)

13 THE COURT OFFICER: (Interpretation) We are in closed session, your Honour.
14 (The witness stands down)

15 PRESIDING JUDGE EBOE-OSUJI: Court will rise.

16 THE COURT OFFICER: All rise.

17 *(The hearing ends in closed session at 4.03 p.m.) Reclassified as open session

18 RECLASSIFICATION REPORT

19 Pursuant Trial Chamber V(a) 's Decision, ICC-01/09-01/11-981, dated 24 September
20 2013, and the instructions in the email dated 14 August 2014, the version of the
21 transcript with its redactions becomes Public.